***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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WRIT PETITION NO : 111 of 2006

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% 04.01.2006

Between:

Sayam Venkata Ganesh S/o. Sri Govinda Rao,

Horticulture Officer, Working under Assistant Director,
Department of Horticulture, Srikakulam

R/o. H.No. 3-168/1, Friends Colony, GR Puram,

Ranasthalam, Srikakulam District,

..... PETITIONER

AND

The District Collector, Visakhapatnam District,

Visakhapatnam and another.

.....RESPONDENTS

! COUNSEL FOR THE PETITIONER: MR.A.Srinivasa Sarma

^ COUNSEL FOR THE RESPONDENTS: G.P.FOR SOCIAL WELFARE

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THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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Visakhapatnam and another.

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ORDER:

The petitioner challenges the show cause notice dated 27.12.2005 issued by the District Collector, Visakhapatnam, first respondent herein.

The father of the petitioner belongs to Kapu community and his mother belongs to

Scheduled Tribe. On the strength of the Government Orders issued from time to time, the petitioner claimed and secured the benefit of being declared as a Scheduled Tribe. He has been appointed as a Horticulture Officer in the Department of Horticulture, Government of Andhra Pradesh. Complaints were received by the first respondent from the associations of SC & ST employees to the effect that the petitioner does not belong to Scheduled Tribe and that he is deriving several benefits, meant for such Community. On receipt of the same, the first respondent conducted a preliminary enquiry and thereafter referred the matter to the District Level Scrutiny Committee, second respondent herein. The committee, in turn, submitted its report on 07.11.2005. Taking the report of the Committee as well as the recent Judgment of the Supreme Court in Civil Appeal No.4413 of 2003, into consideration, the first respondent issued a show cause notice to the petitioner as to why the Caste Certificate issued to him by the Mandal Revenue Officer, G.K.Veedhi Mandal, shall not be cancelled.

Learned counsel for the petitioner submits that the petitioner was not given adequate opportunity before the second respondent, despite the specific provisions in the Andhra Pradesh (SC, ST & BCs), Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997 (for short “the Act”). He further contends that the first respondent did not furnish the copy of the report of the second respondent and it, in fact, prejudged the issue.

Learned Government Pleader for Social Welfare, submits that the impugned show cause notice is issued only after conducting an enquiry as provided for under Section 5 of the Act and the relevant Rules and that no exception can be taken to it.

It is in rare circumstances that this Court would interfere with the show cause notices, issued in statutory proceedings. The instances are limited to those, where the authority, who issued the show cause notice, does not have the jurisdiction, or where the prescribed procedure is not followed. Section 5 of the Act prescribes the procedure for cancellation of the caste certificates and the further procedure is prescribed under the Rules. Whenever the District Collector entertains a doubt by himself or receives any complaint as regards the genuineness of the social status of a person, who is enjoying the benefit of a certificate to the effect that he belongs to SC, ST or BC, he is required to undertake a preliminary enquiry, and thereafter entrust the matter to the District Level Committee. The Committee, in turn, has to give an opportunity to the affected individual and submit its report to the District

Collector. The further steps are required to be taken by the District Collector himself.

In the instant case soon after receipt of the complaint from the Association of SC & ST employees, the first respondent conducted a preliminary enquiry and thereafter referred the matter to the second respondent. The second respondent, in turn, issued notice to the petitioner and hearings were conducted on one or two occasions. The question as to whether any serious contest has taken place or whether the hearings were adjourned without any innocuous exercise, cannot be examined by this Court. Once it had emerged that a District Level Committee conducted an enquiry and submitted its report, it can be said that there was compliance with the provisions of the Act and Rules. It is a different thing that the petitioner had an objection as to the findings recorded by the second respondent.

The petitioner complains that the first respondent did not furnish him the copy of the findings recorded by the second respondent. Another limb of submissions made on behalf of the petitioner is that the Government of Andhra Pradesh issued G.O.Ms. No. 371, Employment and Social Welfare (B2) Department, dated 13.04.1976, dealing with the situations of inter-caste marriages and providing for issuance of caste certificate on par with the lower caste of the parents. Even this is a matter, which needs to be examined by the first respondent, depending on the nature of the plea taken by the petitioner and any subsequent orders that may have been passed by the Government or the Judgment of the Supreme Court in the case referred to above. Therefore, this Court is not inclined to interfere with the show cause notice.

Hence, the writ petition is disposed of directing that:

a. in case the first respondent did not furnish a copy of the Report of the District Level Committee to the petitioner, he shall do so within a period of one week from the date of receipt of a copy of this order;

b. on receipt of copy of the report, the petitioner shall submit his explanation within a period of 10 days thereafter on the factual and legal grounds that are open to him;

c. the first respondent shall take the grounds urged by the petitioner into account while passing the final orders in the matter; and

d. the time fixed by the first respondent for submission of explanation of

the petitioner shall stand extended correspondingly.

e. There shall be no order as to costs.

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04.01.2006

Note: L.R.Copy to be marked.

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